IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

THURSDAY, THE 29TH MARCH 2007 / 8TH CHAITHRA 1929

WP(C).No. 8472 of 2007(H)

PETITIONER:

SARGIS, KOCHAKKAN HOUSE,
MARAKKAPARAMBIL, EAST OF KHANDAKARANAN VELI,
KOTTUVALLY VILLAGE, PARAVUR.

BY ADV. SRI.DINESH R.SHENOY

RESPONDENTS:
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1. THE SUB INSPECTOR OF POLICE,
VADAKKEKARA POLICE STATION, NORTH PARAVUR.

2. SIVADASAN, S/O.KUMARAN,
PUTHENPURAKKAL, MALIANKARA DESOM,
MOOTHAKUNNAM VILLAGE.

3. PRAKASAN, S/O.KUMARAN,
PUTHENPURAKKAL, MALIANKARA DESOM,
MOOTHAKUNNAM VILLAGE.

4. JOSHY, S/O.VASU,
KALATHIPARAMBIL, MOOTHAKUNNAM.

5. SREEKANTH, S/O.RAJAPPAN,
THAIKKOODAM, KOTTUVALLIKKAD.

6. MURALEEKRISHNAN, S/O.KOCHUNNI,
PUTHENPURAKKAL, MALIANKARA.

7. VIMAL, S/O.SIVADASAN,
PUTHENPURAKKAL, MALIANKARA.

8. THE KERALA KSHETHRA SAMRAKSHANA
SAMITHY, MALIANKARA BRANCH, REP.BY ITS SECRETARY
JOSHY, S/O.VASU, KALATHIPARAMBIL,
MOOTHAKUNNAM.

9. SANTHOSH, S/O.NARAYANAN,
VANCHIPURACKAL, KOTTUVALLIKKADU,
MOOTHAKUNNAM.

BY ADV. SRI.V.RAJENDRAN (PERUMBAVOOR)
SRI.GEORGE VARGHESE KIZHAKKAMBALAM
SRI.B.N.SHIVSANKAR FOR R8.
GOVERNMENT PLEADER SRI.P.A.SALIM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE JUDGMENT IN E.F.A.NO.13/2001, HIGH COURT OF KERALA, ERNAKULAM.

EXT.P2: COPY OF THE ORDER DATED 25.1.2006 IN I.A.NO.224/2006 IN EX.F.A.NO.3/2006, HIGH COURT OF KERALA.

EXT.P3: COPY OF THE ORDER DATED 25.1.2006 IN C.R.P.NO.671/2002, HIGH COURT OF KERALA.

EXT.P4: COPY OF THE DELIVERY REPORT BY THE AMIN, SHRI.V.P.MAHEESAN IN I.A.NO.1595/2000 IN O.S.NO.212/1992, ADDITIONAL SUB COURT, NORTH PARAVUR.

EXT.P5: COPY OF THE ORDER DATED 14.7.2006 IN I.A.NO.526/2006 IN A.S.NO.241/2006, ADDITIONAL DISTRICT COURT, NORTH PARAVUR.

EXT.P6: COPY OF THE COMPLAINT DATED 7.2.07 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

BKN // TRUE COPY//

P.A. TO JUDGE.

J.B.KOSHY & T.R.RAMACHANDRAN NAIR, JJ.

W.P.(C).NO. 8472 OF 2007

Dated this the 29th day of March, 2007.

JUDGMENT

Koshy, J.

This is a petition for police protection. The petitioner got delivery of 41 cents of land and temple on the basis of Division Bench Order of this court in E.F.A.13/2001. Thereafter the respondents in the above E.F.A or any others have no right to prevent the petitioner from entering into the petition schedule property. However, subsequent to the above an objection was filed before the District Court and finally by Ext.P2 order another Division Bench ordered as follows:-

> "Now it is agreed on both sides that the trial Court will appoint a commissioner to enable the decree holder to take delivery of the property through the eastern side by demolishing the portion of the compound wall belonging to the appellant in Ex.F.A.3/06 for the purpose of entry of Amin and other persons for effecting delivery. The demolished portion of the compound wall will be reconstructed after delivery is effected in the presence of the commissioner. The other questions will be considered in the appeal. It is made clear that the demolition and reconstruction of compound wall will be at the expense of the decree holder".

This is also an agreed order. It is submitted that there was a suit pending as O.S.347/2001, wherein an injunction application was sought for restraining the petitioner from demolishing the temple and Sarpakavu. The plaintiffs

undertook that they will not demolish any way the temple building and Sarpakavu. On recording the undertaking, injunction application was also disposed of. Petitioner submits that he will not demolish the Sarpakavu. Undertaking of the petitioner is that he will not enter into the temple or demolish the temple or Sarpakavu. But that does not mean that petitioner cannot use the property near the temple for a way as he got delivery of the property. In the above circumstances, we direct the police to see that law and order is maintained and see that temple and the Sarpakavu is not demolished. At the same time police also should ensure that petitioner's right to use the property other than the temple and Sarpakavu is not obstructed. Police should also see that applicable Civil Court orders are not violated. Any pending matter in Civil Court shall be decided, untrammeled by the observation in this judgment.

The Writ Petition is disposed of accordingly.

J.B.KOSHY, JUDGE.

T.R.RAMACHANDRAN NAIR, JUDGE.

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